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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/826,103

04/16/2004

Jean-Michel Karam

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EXAMINER

NASSER, ROBERT L

ART UNIT

PAPER NUMBER

3735

MAIL DATE

DELIVERY MODE

02/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/826,103	Applicant(s) KARAM ET AL.	
	Examiner ROBERT L. NASSER	Art Unit 3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-11 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-11 and 13-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 2/7/2008 has been entered.

The examiner regrets that upon further review of the application, art was found to be deemed pertinent to claims 2 and 3. Accordingly, the allowability is being withdrawn. The examiner invites applicant to phone him to discuss the rejections using the Rubinstenn reference.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 6-11, and 13-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites that there are 3 sensors, each measuring a skin parameter, but then enumerates that the sensors measure temperature, moisture, and ambient humidity. Ambient humidity is not a skin parameter. Clarification is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6-8, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowie 5588440 in view of Ouellette 5938593. Cowie shows a device with a hand held probe 10 having an acquisition region, the curved tip, with three sensors on the tip, a temperature sensor, and sound sensor, and a moisture sensor. The sensors are connected to a processing unit comprised of a moisture monitor, a stethoscope, and a temperature monitor, where the signals from the 3 sensors are processed and used to diagnose the cutaneous surface (see column 3, lines 20-25. It does not also have the ambient humidity sensor. However, Ouellette teaches throughout that that when measuring skin moisture, the measurement should be compensated for humidity. Hence, it would have been obvious to modify Cowie to use a humidity sensor, so as to improve measurement accuracy. With respect to claim 6, the processing unit is electrically connected to the acquisition region and the acquisition region can be positioned in front of the cutaneous surface. With respect to claim 7, the examiner takes official notice that wireless connections, particularly, rf connections, between sensors and processors are well known in the medical field, to allow flexibility of use of the device, so the heavy processing equipment can remain stationary and the light measuring instrument may be moved. As such, it would have been obvious to modify Cowie to use wireless transmission,

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to increase the flexibility of use of the device. Claim 8 is rejected in that there is also a display (column 3, line 8). Claim 10 is rejected in that diagnosing the region involves classifying the skin into a category.

Claims 1, 6, 8, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka et al 6251070 in view of Ouellette. Khazaka shows a device for measuring cutaneous parameters with 2 sensors, a sebum sensor 12, which is a lipid level sensor 9 in that the higher the sebum levels, the higher the lipid levels, and a moisture sensor 18. It has a hand held device with the sensors in an acquisition region, and a processor unit to measure the skin parameters from the sensor output. Ouellette teaches that a moisture sensor is temperature and humidity dependent and should be compensated for the effects of temperature and humidity. As such, it would have been obvious to modify Khazaka to locate temperature and humidity sensors with the moisture sensor to improve the accuracy of the readings. With respect to claim 6, the processing unit is electrically connected to the acquisition region and the acquisition region can be positioned in front of the cutaneous surface. Claim 8 is rejected in that there is also a display 26.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cowie in view of Ouellette, as applied to claims 1, 6, 8, and 10 above, further in view of Haddock et al 6712771. Haddock further teaches that a MEMS temperature sensor is a known temperature sensor. As such, it would have been obvious to modify Cowie to use a MEMS sensor, as it is merely the substitution of one known temperature sensor for another.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka in view of Ouellette, as applied to claims 1, 6, and 8 above, further in view Haddock et al 6712771. Haddock further teaches that a MEMS temperature sensor is a known temperature sensor. As such, it would have been obvious to modify the combination to use a MEMS sensor, as it is merely the substitution of one known temperature sensor for another.

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka in view of Ouellette, as applied to claims 1, 6, and 8 above, further in view Leveque 6944191. Khazaka is used to evaluate the topography of the skin, including scaling and wrinkles. Leveque teaches that such skin evaluation devices may be connected via the internet to a library of cosmetic products, to evaluate treatment products for the skin. As such, it would have been obvious to modify the combination to connect to a treatment library, to ensure that the patient receives the most up to date and accurate treatments. As to claim 9, been obvious to use a MEMS sensor. Claim 9 is rejected in that given that the system of Leveque connects to an internet site, it seems clear that the system is designed to link to multiple users. Hence, it would have been obvious that the combination would have would be multiple handheld units, to accommodate multiple users.

Claims 2, 3, 14, 15, and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka in view of Ouellette, as applied to claims 1, 6, and 8 above, further in view Rubinstenn et al 2003/0064356. The combination

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does not disclose the specific sensors. Rubinstenn in paragraph [0048] disclose that all of the sensors in these claims are known to be used at the same sitting to evaluate the skin condition of a user. Khazaka already combines two of the sensors into one handheld device. It is the examiner's position that it would have been obvious to modify the combination to include the ph sensor or the elasticity sensor or the image sensor which measures texture or topography, to provide a more detail picture of the condition of the users skin. The examiner notes that the image sensor measures texture of the skin and is hence a print sensor, as defined in the claims.

Applicant's arguments filed 2/7/2008 have been fully considered but they are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is 571 272-4731. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert L. Nasser Jr/
Primary Examiner, Art Unit 3735